

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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NORTH READING SCHOOL COMMITTEE  
Plaintiff

v.

Civil Action No. 05-11162 RCL

BUREAU OF SPECIAL EDUCATION  
APPEALS of the MASSACHUSETTS  
DEPARTMENT OF EDUCATION,  
MASSACHUSETTS DEPARTMENT  
OF EDUCATION, and TIMOTHY  
GRAFTON and COURTNEY GRAFTON,  
as Parents and Next Friend of M.G.  
Defendants

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**NORTH READING SCHOOL COMMITTEE'S  
MOTION TO DISMISS TIMOTHY AND COURTNEY  
GRAFTON'S COUNTERCLAIM (COUNT II ONLY)**

Now comes the Defendant-in-Counterclaim, North Reading School Committee, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and moves to dismiss Count II of the counterclaim of Timothy and Courtney Grafton (the Graftons). As grounds therefore the Defendant in Counterclaim states that the Graftons have failed to state a claim upon which relief may be granted. Specifically, (1) the Parents have not exhausted administrative remedies prior to bringing this counterclaim; and (2) even in a light most favorable to the plaintiff, the facts alleged do not state a claim upon which relief may be granted in that the specific actions of which the Parents complain do not rise to the level of retaliation as a matter of law.

WHEREFORE the Defendant-in-Counterclaim, North Reading School Committee, respectfully requests that this court dismiss the Counterclaim against it.

**REQUEST FOR ORAL ARGUMENT**

North Reading School Committee hereby requests an oral argument on its Motion to Dismiss pursuant to Local Rule 7.1(A)(2).

Respectfully submitted,  
The Plaintiff/Defendant-in-Counterclaim,

North Reading School Committee,

By its attorneys,

SULLIVAN & NUTTALL, P.C.

  
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Thomas J. Nuttall  
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1020 Plain Street, Suite 270  
Marshfield, MA 02050  
(781) 837-7428

**Certificate of Service**

I hereby certify that I have served a copy of the foregoing document on all counsel of record for each party by first class mail, postage prepaid.

Date: 9/20/05

  
\_\_\_\_\_  
Thomas J. Nuttall

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**CERTIFICATION OF THOMAS J. NUTTALL  
PURSUANT TO LOCAL RULE 7.1(A)(2)**

I, Thomas J. Nuttall, hereby certify that I am counsel of record for the Plaintiff/Defendant-in-Counterclaim North Reading School Committee. I have conferred with Tim Sindelar, counsel for Timothy and Courtney Grafton, and have attempted in good faith to resolve or narrow the issues presented in this motion. No resolution has been reached.

Date: 9/20/05

  
\_\_\_\_\_  
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